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12 **UNITED STATES DISTRICT COURT**
 13 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
 14 **SAN FRANCISCO DIVISION**

15 CENTER FOR BIOLOGICAL DIVERSITY
et al.

Case No. 3:22-cv-3309-RS

JOINT NOTICE TO COURT OF
STIPULATION TO MODIFY CONSENT
DECREE (DKT. NO. 37)

16 Plaintiffs,

17 v.

18 MICHAEL S. REGAN, in his official capacity
 19 as the Administrator of the United States
 20 Environmental Protection Agency,

21 Defendant.

22 Defendant Michael S. Regan, in his official capacity as the Administrator of the United
 23 States Environmental Protection Agency (hereinafter “EPA”), and Plaintiffs Center for
 24 Biological Diversity and Center for Environmental Health (collectively, “Plaintiffs”) file this
 25 stipulation notifying the Court that the parties have agreed to extend the deadline for final action
 26 under the Consent Decree. The aforementioned deadline is set forth in Paragraph 1.b of the
 27 Consent Decree entered by the Court on June 15, 2023 (Dkt. No. 37). Paragraph 5 of the Consent
 28 Decree provides, *inter alia*, that “[t]he deadlines established by this Consent Decree may be

1 extended (a) by written stipulation of Plaintiffs and EPA with notice to the Court[.]” Consent
 2 Decree, ¶ 5.

3 WHEREAS, the Consent Decree provides that the appropriate EPA official shall
 4 “sign a notice of final rulemaking to approve a revised SIP submission, to promulgate a FIP
 5 [“Federal Implementation Plan”], or to approve in part a revised SIP [“State Implementation
 6 Plan”] submission and promulgate a partial FIP for the Los Angeles—San Bernardino Counties
 7 (West Mojave Desert), California nonattainment area (codified at 40 C.F.R. § 81.305) (Mojave
 8 Desert Air Quality Management District) for the SIP element listed below no later than
 9 November 29, 2024:”

Item	State Implementation Plan Submittal and/or Applicable Elements or Control Techniques Guideline
i.	Nonattainment new source review pursuant to 42 U.S.C. §§ 7511a(a)(2)(C) and 7511a(d) (“Severe NNSR”)

14 Consent Decree ¶ 1.b.

15 WHEREAS, on June 30, 2023, EPA issued a final rule entitled “Approval, Limited
 16 Approval and Limited Disapproval of California Air Plan Revisions; Mojave Desert Air Quality
 17 Management District; Stationary Source Permits,” 88 Fed. Reg. 42258 (June 30, 2023), which
 18 resolved part of EPA’s obligations under Consent Decree ¶ 1.b;

19 WHEREAS, on July 9, 2024, EPA issued a proposed action on a FIP for a
 20 nonattainment new source review program for the Mojave Desert Air Quality Management
 21 District, available at 89 Fed. Reg. 56237 (July 9, 2024), to resolve its remaining obligations
 22 under Consent Decree ¶ 1.b;

23 WHEREAS, on September 5, 2024, the United States Court of Appeals for the Ninth
 24 Circuit issued a ruling in *Mojave Desert Air Quality Management District v. EPA*, No. 23-1411,
 25 2024 WL 4054380 (9th Cir. Sept. 5, 2024) remanding EPA’s limited disapproval set forth in 88
 26 Fed. Reg. 42258 (June 30, 2023);

27 WHEREAS, in light of that ruling, EPA requires a brief extension of its deadline under
 28 Consent Decree ¶ 1.b to take final action consistent with its obligations under that paragraph;

1 WHEREAS, therefore, the parties have agreed to an extension of the final rule deadline
2 in Paragraph 1.b of the Consent Decree until January 10, 2025;

3 NOW THEREFORE, Plaintiffs and EPA hereby stipulate as follows:

4 1. EPA's deadline to perform the action described in Paragraph 1.b of the Consent
5 Decree (Dkt. No. 37, ¶ 1.b) is extended until January 10, 2025.

6 Respectfully submitted,

7 Date: November 8, 2024

8 /s Jonathan Evans (email auth. 11/7/2024)

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